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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,013	08/08/2001	Thomas Ullein	ULLEIN	3599
20151	7590	11/03/2003	EXAMINER	
HENRY M FEIEREISEN, LLC			JOHNSON, VICKY A	
350 FIFTH AVENUE			ART UNIT	
SUITE 4714			PAPER NUMBER	
NEW YORK, NY 10118			3682	
DATE MAILED: 11/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/925,013

Applicant(s)

ULLEIN ET AL.

Examin r

Vicky A. Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24,27-30,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-15,17-22,27-30,32 and 33 is/are rejected.
- 7) ☒ Claim(s) 5, 16, 23, and 24 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Stief et al (US 5,931,754).

Stief et al disclose a chain tensioner, comprising: a tensioner piston (2) bearing upon a chain; a cylinder (3) guiding the piston for movement in a direction of the chain and bounding with the piston a pressure chamber (8) for receiving hydraulic fluid; a leakage gap for migration of hydraulic fluid from the pressure chamber (see Fig 3, the gap formed between the chambers 8 and 9, and a gap 14), and a control member (7) for at least reducing the leakage gap in size when a pressure in the pressure chamber increases (col. 4 lines 7-10, during extension of the piston 2 the pressure in chamber 8 decreases and the ball opens from its seat so that fluid flows through the gap between chambers 8 and 9 and the gap 14, during retraction of the piston 2 the pressure in chamber 8 increases to dampen the effects of the chain, and the ball of the valve closes the gap between the chambers 8 and 9 allowing fluid to only flow through the gap 14).

Re claim 2, Stief et al show the control member is a valve (7) having a valve body (unnumbered ball, see Fig 3) for bounding the leakage gap (see Fig 3), said valve

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body being configured for displacement to at least reduce the leakage gap in size, when the pressure in the pressure chamber increases (col. 4 lines 7-17).

Re claim 3, Stief et al show the valve body clears the leakage gap, when the pressure in the pressure chamber drops below a critical lower level, and at least reduces the leakage gap in size, when the pressure in the pressure chamber exceeds a critical upper level (col. 4 lines 7-12).

Re claim 4, Stief et al show a first stop (the retainer acts as a first stop to limit movement of the ball), wherein the valve body clears the leakage gap, when abutting against the first stop (see Fig 3).

Re claim 6, Stief et al show a valve spring (unnumbered valve spring, see Fig 3) for biasing the valve body against the first stop.

Re claim 7, Stief et al show a second stop (the top of element 1 closest to the ball), wherein the valve body is configured to abut the second stop (see Fig 3) when the pressure in the pressure chamber increases to thereby at least reduce the leakage gap in size (col. 4 lines 7-10).

Re claim 8, Stief et al show the second stop (the top of element 1 closest to the ball) forms a valve seat (see Fig 3) for the valve body (unnumbered ball, see Fig 3).

Re claim 9, Stief et al show the valve body (unnumbered ball, see Fig 3) is moved away from the first stop (unnumbered retainer) in opposition to a spring action applied by the valve spring (unnumbered spring, see Fig 3), as the pressure in the pressure chamber increases.

Re claim 10, Stief et al show the control member is a valve (7) in communication with the pressure chamber (8).

Re claim 11, Stief et al show the leakage gap is subdivided in a first leakage gap portion (a gap 14) and a second leakage gap portion (see Fig 3, the gap formed between the chambers 8 and 9) wherein the control member clears the first leakage gap portion when the pressure in the pressure chamber drops below a critical lower level, and at least reduces the second leakage gap portion in size, when the pressure in the pressure chamber exceeds a critical upper level (col. 4 lines 7-10).

Re claim 12, Stief et al show the control member is a valve (7) having a valve body (unnumbered ball, see Fig 3), which closes the second leakage gap portion when the pressure in the pressure chamber increases (col. 4 lines 7-17).

Re claim 13, Stief et al show a first stop (unnumbered retainer, see Fig 3), wherein the valve body abuts against the first stop to clear the second leakage gap portion when the pressure in the pressure chamber drops below the critical lower level.

Re claim 14, Stief et al show a second stop (unnumbered valve seat, see Fig 3), wherein the valve body abuts against the second stop to at least reduce the second leakage gap portion in size when the pressure in the pressure chamber exceeds the critical upper level (col. 4 lines 7-10).

Re claim 15, Stief et al show a valve spring (unnumbered valve spring, see Fig 3) for biasing the valve body against the first stop.

Re claim 17, Stief et al show the second stop is formed as valve seat (the top of element 1 closest to the ball) for the valve body (see Fig 3).

Re claim 18, Stief et al show a second stop (the top of element 1 closest to the ball), wherein the valve body abuts against the second stop to at least reduce the second leakage gap in size when the pressure in the pressure chamber exceeds the critical upper level (col. 4 lines 7-10), wherein the valve body (7) is disposed between the first and second stops (see Fig 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19-22, 27-30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stief et al (US 5,931,754) in view of Smith (US 6,361,458).

Stief et al discloses a tensioner as described above but does not disclose the valve body configured as a plunger.

Smith shows the valve body is configured as a plunger (304), which is guided in the cylinder for longitudinal displacement (see Fig 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tensioner of Stief et al to include the valve body configured as a plunger as taught by Smith in order to reduce mass and increase response time (col. 5 lines 20-30).

Re claim 20, Smith shows the plunger defines the leakage gap in concert with the cylinder (see Fig 2).

Re claim 21, Stief et al show a valve spring (unnumbered valve spring, see Fig 3) for biasing the valve body in a direction toward a first stop (unnumbered retainer, see Fig 3), said piston clearing the leakage gap, when abutting against the first stop (see Fig 3) and Smith shows and renders obvious the valve body being a plunger (see Fig 3).

Re claim 22, Stief et al show the valve body is moved away from the first stop to abut against a second stop when the pressure in the pressure chamber exceeds the upper critical level to close the leakage gap (col. 4 lines 7-10) and Smith shows and renders obvious the valve body being a plunger (see Fig 3).

Re claim 27, Smith shows a seat formed with circumferential grooves to define the passageways (see Fig 7).

Re claim 28, Stief et al show a tensioner piston (2) bearing upon a chain; a cylinder (3) guiding the piston for movement in a direction of the chain and bounding with the piston a pressure chamber (8) for receiving hydraulic fluid; a leakage gap for migration of hydraulic fluid from the pressure chamber (see Fig 3, the gap formed between the chambers 8 and 9, and a gap 14), and a control member (7) for at least reducing the leakage gap in size when a pressure in the pressure chamber increases (col. 4 lines 7-10, during extension of the piston 2 the pressure in chamber 8 decreases and the ball opens from its seat so that fluid flows through the gap between chambers 8 and 9 and the gap 14, during retraction of the piston 2 the pressure in chamber 8 increases to dampen the effects of the chain, and the ball of the valve closes the gap between the chambers 8 and 9 allowing fluid to only flow through the gap 14), the control member (7) is movable between first and second stops (unnumbered valve seat

and unnumbered retainer, see Fig 3) and spring-biased (unnumbered valve spring, see Fig 3) to seek a position against a first stop, and the control member (7) moves toward the second stop to at least reduce the fluid flow through the leakage gap, as the pressure in the pressure chamber rises (col. 4 lines 7-10) and Smith shows and renders obvious the first stop having passageways (326) to allow seepage of hydraulic fluid through the leakage gap (see Fig 7.

Re claim 29, Stief et al show the control member is a ball valve (7) disposed between the first and second stops (see Fig 3).

Re claim 30, Smith shows the control member is a plunger (302) disposed between the first and second stops (see Fig 2).

Re claim 32, Stief et al show a tensioner piston (2) bearing upon a chain; a cylinder (3) guiding the piston for movement in a direction of the chain and bounding with the piston a pressure chamber (8) for receiving hydraulic fluid; a first leakage gap (14) formed between adjacent wall surfaces of the cylinder and the piston for migration of hydraulic fluid from the pressure chamber (8); a second leakage gap (unnumbered gap between the chambers 8 and 9) for migration of hydraulic fluid from the pressure chamber; and a control member (7) for regulating a fluid flow through the second leakage gap in dependence on a pressure in the pressure chamber (col. 4 lines 7-10) and the control member reduces a fluid flow through the second leakage gap, as the pressure in the pressure chamber rises (col. 4 lines 7-10).

Re claim 33, Stief et al show the control member closes the second leakage gap, when the pressure in the pressure chamber exceeds an upper limit (col. 4 lines 7-10).

Allowable Subject Matter

5. Claims 5, 16, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Some further comments regarding the applicant's remarks are deemed appropriate.

The applicant argues that the control member of the Stief reference fails to meet the limitations of the claims. Claim 1 states "a control member for at least reducing the leakage gap in size, when a pressure in the pressure chamber increases". During extension of the piston 2 the pressure in chamber 8 decreases and the ball opens from its seat so that fluid flows through the gap between chambers 8 and 9 and the gap 14, during retraction of the piston 2 the pressure in chamber 8 increases to dampen the effects of the chain, and the ball of the valve closes the gap between the chambers 8 and 9 allowing fluid to only flow through the gap 14 thereby reducing the leakage gap. Therefore, the control member (7) meets the limitation of the claim.

It is also argued that the Smith reference fails to meet the limitations of the claims, because it fails to teach a control member for reducing a fluid flow through a leakage gap. The Smith reference is used to show that it is known in the art to configure a valve body as a plunger.

The applicant's remarks have been accorded due consideration, however, are not deemed fully persuasive.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

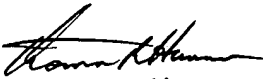
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Thursday (7:00a-5:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

vaj *vaj* 10/21/03


Thomas R. Hannon
Primary Examiner